

April 26, 2019

VIA ECFS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

**Re: Ex parte presentation regarding Broadband VI, LLC (“Broadband VI”)
Request for Temporary Waiver of Lifeline Minimum Service Standard
 (“Waiver Request”); WC Docket Nos. 11-42, 09-197, 10-90**

Dear Ms. Dortch:

Virgin Islands Telephone Corporation d/b/a Viya (“Viya”) renews its request for the Wireline Competition Bureau to seek clarification from Broadband VI regarding the factual assertions on which Broadband VI’s Waiver Request¹ is premised. Broadband VI’s Reply Comments² in this proceeding further demonstrate the need for the Bureau to obtain a full understanding of the circumstances relevant to the Waiver Request. Rather than clarifying the record in this proceeding, as Viya requested in its Comments,³ the Reply Comments provide new information about Broadband VI’s broadband offering in the U.S. Virgin Islands (“USVI” or “Territory”) that appears to be inconsistent with information previously submitted to the Federal

¹ Request for Temporary Waiver of Lifeline Minimum Service Standard filed by Broadband VI, LLC in WC Docket No. 11-42 (filed Oct. 18, 2018) (“Waiver Request”); *see also Wireline Competition Bureau Seeks Comment on Broadband VI Petition for Temporary Waiver of Lifeline Program Minimum Service Standards*, Public Notice, DA 19-133 (WCB rel. Feb. 28, 2019).

² Reply Comments of Broadband VI, LLC, WC Docket Nos. 11-42, 09-197, 10-90 (filed Mar. 21, 2019) (“Reply Comments”).

³ *See* Comments of Virgin Islands Telephone Corp. d/b/a Viya, WC Docket Nos. 11-42, 09-197, 10-90, at 10 (filed Mar. 14, 2019) (“Comments”).

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Communications Commission (“FCC”) in this proceeding, as well as to the Virgin Islands Public Services Commission (“PSC”).

Based on Broadband VI’s assertion that it can and will comply with all applicable USVI and federal requirements, including eligible telecommunications carrier (“ETC”) obligations, Broadband VI has received \$931,211.69 of Connect USVI Fund Stage 1 fixed support.⁴ In addition, it has indicated that it intends to seek Stage 2 fixed support. High-cost ETC status is an eligibility requirement for Stage 1 fixed support and a proposed eligibility requirement for Stage 2 fixed support.⁵ In September 2018, the PSC granted conditional ETC status to Broadband VI,⁶ even though Broadband VI acknowledged in its ETC application that it is unable to offer broadband throughout the USVI at the previously required minimum Lifeline speed of 15/2 Mbps.⁷ To address this noncompliance, Broadband VI told the PSC that it would file a waiver

⁴ See *Wireline Competition Bureau Announces Stage 1 Restoration Funding for the Uniendo a Puerto Rico Fund and the Connect USVI Fund*, Public Notice, 33 FCC Rcd 8044, 8047, Attachment B (WCB 2018).

⁵ See *The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, Order and Notice of Proposed Rulemaking, 33 FCC Rcd 5404, ¶ 19, 5415 ¶ 44 (2018).

⁶ See *Broadband VI, LLC Petition for Eligible Telecommunications Carrier Designation in the U.S. Virgin Islands*, USVI PSC Order, Docket No. 669, Order No. 49/2018 (Sept. 5, 2018) (“PSC ETC Order”). The FCC’s rules require:

When an eligible telecommunications carrier is designated by a state commission, the state commission shall file or require the eligible telecommunications carrier to file information with the Administrator demonstrating that the carrier's Lifeline plan meets the criteria set forth in this subpart Lifeline assistance shall be made available to qualifying low-income consumers as soon as the Administrator certifies that the carrier's Lifeline plan satisfies the criteria set out in this subpart.

47 C.F.R. § 54.401(d). In the PSC ETC Order, the PSC did not instruct Broadband VI to submit a Lifeline plan to the Universal Service Administrative Company (“USAC”), and it is not clear that Broadband VI or the PSC has submitted Broadband VI’s Lifeline Plan to USAC to date.

⁷ See Application of Broadband VI, LLC for Designation as an Eligible Telecommunications Carrier in the United States Virgin Islands, Virgin Islands Public Services Commission, at 8 (June 28, 2018) (“Broadband VI ETC Application”). A copy of Broadband VI’s ETC Application is attached hereto as Attachment A. See also Waiver Request at 1 n.1 (citing *Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount*, Public Notice, 33 FCC Rcd 6769 (WCB 2018), which establishes a minimum broadband speed of 18/2 Mbps as of December 1, 2018).

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request seeking the FCC's consent to instead offer 10/1 Mbps speeds throughout the USVI through December 2019 and then offer Lifeline-compliant broadband—currently 18/2 Mbps.⁸

As explained below, it now appears that Broadband VI has not been, and may not be able to, provide 10/1 Mbps broadband speeds throughout the USVI. For this reason, Viya renews its request that, prior to acting in this proceeding, the FCC require Broadband VI to certify that it is capable of satisfying the commitments that it made in the Waiver Request. This includes both being capable of offering 10/1 Mbps broadband throughout the USVI now and being able to offer 18/2 Mbps service throughout the USVI by December 2019. As explained by Viya in its Comments, any waiver of the ETC Lifeline requirements issued by the FCC will set precedent for future waiver requests as increasing numbers of capacity-constrained wireless internet service providers enter the universal service program with the Connect America Fund Phase II auction.⁹

In its Reply Comments, Broadband VI appears to acknowledge that its lower tier residential service provides 5/1 Mbps broadband speeds. Contrary to the Lifeline Plan that Broadband VI filed with the PSC¹⁰ and the Waiver Request that it filed with the FCC, both of which emphasized a 10/1 Mbps service offering, Broadband VI states in its Reply Comments that it “restored its network *to support the same 5/1 Mbps service it provided prior to the hurricanes*”¹¹ and that it “has been *gradually* deploying 10/1 Mbps speeds to the majority of customers who initially signed up for its 5/1 Mbps plan.”¹² Broadband VI explains:

After the storms, Broadband VI elected to prioritize the prompt restoration of some form of broadband internet service to its customers over attempting to rebuild networks to meet the Lifeline speed minimums. The result was the restoration (and expansion) of the same 5/1 Mbps service Broadband VI offered before the hurricanes, and *now*, the addition of 10/1 Mbps service for *most* of its initial 5/1 Mbps subscribers.¹³

⁸ Broadband VI ETC Application at 8.

⁹ Comments at 2.

¹⁰ A copy of Broadband VI's Lifeline Plan is attached hereto as Attachment B (“Lifeline Plan”). As a condition to granting Broadband VI ETC status, the PSC required Broadband VI to file within 30 days “a plan to the PSC to implement a Lifeline program” that includes “pricing, terms and conditions for BIAS, a description of proposed outreach and a commitment to comply with the FCC's rules on Lifeline enrollment, certification and verification,” as well as “a copy of its petition to the FCC to waive the speed standard for its Lifeline BIAS offering and a copy of any FCC response.” PSC ETC Order ¶ 8(d).

¹¹ Reply Comments at 2 (emphasis in original).

¹² *Id.* at 3 (emphasis added).

¹³ *Id.* at 3-4 (emphasis added).

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Thus, Broadband VI acknowledges in its Reply Comments that it is still in the process of “gradually” upgrading “most” of its customers to broadband speeds of 10/1 Mbps.¹⁴ Gradually increasing the broadband speeds of most of its 5/1 Mbps customers to 10/1 Mbps, without even mentioning a 10/1 Mbps broadband offering in any of its marketing materials, is not the same as offering a 10/1 Mbps service throughout the USVI.

In fact, today—more than 19 months after Hurricanes Irma and Maria struck the USVI and six months after it filed its Waiver Request and Lifeline Plan—Broadband VI still does not advertise a 10/1 Mbps service. Its website continues to list only one lower tier residential broadband offering—customers can order broadband with “download speeds of up to 5Mbps” for \$49.95.¹⁵ Its Facebook site does not list its broadband plans at all. Addressing this lack of advertising of a 10/1 Mbps service, Broadband VI explains in its Reply Comments that it “has simply chosen not to announce the speed increase on its website yet, but plans on doing so in the near future.”¹⁶ This approach does not appear to be compliant with Broadband VI’s obligation, under both federal¹⁷ and USVI¹⁸ law, to advertise its Lifeline-compliant service throughout the Territory.

¹⁴ It is unclear what Broadband VI means when it states that “most” of its 5/1 Mbps customers have been converted to 10/1 Mbps service. This could mean that only 51% of its lower tier customers currently receive 10/1 Mbps broadband. The Commission should seek clarification from Broadband VI regarding this.

¹⁵ See Broadband VI, Residential Plans, <https://portal.broadband.vi/signup/packages?type=RESIDENTIAL> (last visited Apr. 24, 2019); Broadband VI Facebook site, <https://www.facebook.com/BroadbandVI/>.

¹⁶ Waiver Request at 3.

¹⁷ The FCC’s regulations require all ETCs to “[p]ublicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.” 47 C.F.R. § 54.405(b).

¹⁸ When granting Broadband VI conditional ETC status, the PSC required Broadband VI to comply with all federal and USVI ETC rules and to provide “a description of proposed outreach” in connection with Broadband VI’s Lifeline offering. See PSC ETC Order ¶¶ 7, 8(d). In response, when Broadband VI filed its Broadband Lifeline Plan with the PSC over six months ago, it stated that “Broadband VI will publicize the availability of Lifeline Broadband Internet service on our website and facebook pages.” Broadband VI’s Facebook page does not promote the Lifeline program or contain any information about the company’s broadband offerings. Although Broadband VI has a Lifeline-focused page on its website, the webpage does not mention a 10/1 Mbps service. Instead, it states the general Lifeline requirements:

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By contrast, prior to filing its Reply Comments, Broadband VI informed both the FCC and the PSC that its lower tier service was a 10/1 Mbps offering. Specifically, in its October 18, 2018 Waiver Request, Broadband VI stated that it “*currently* offers *two* levels of residential broadband service: a lower tier featuring 10 Mbps download and 1 Mbps upload speeds at \$49.95 per month” and a 25/3 Mbps service.¹⁹ Further, it stated that the majority of its customers receive 10/1 Mbps service.²⁰ Similarly, in the Lifeline Plan that Broadband VI filed with the PSC in October 2018, it stated:

Broadband VI’s *current* residential plans are: <https://broadband.vi/residential-plans/>
\$49.95/month Basic = 10Mbps down, 1Mbps up (have not updated website yet)²¹

Broadband VI does not mention in either the Waiver Request or the Lifeline Plan that it offers a lower tier service of 5/1 Mbps, which, as noted above, is the only lower tier service offered on its website.²²

In light of the foregoing, Broadband VI’s Reply Comments only compound the confusion regarding the status of its broadband offerings initially identified by Viya in its Comments. It is not clear whether Broadband VI today is able to provide the 10/1 Mbps service throughout the USVI that it committed to provide in October 2018. Importantly, this commitment was a

Lifeline discounts on broadband services are available to participants of federally-recognized aid programs and is limited to certain broadband services. Broadband speeds must be 15 Mbps download and 2 Mbps upload or faster to qualify.

See Broadband VI, Lifeline Internet Services, <https://broadband.vi/lifeline-internet-service/> (last visited Apr. 24, 2019). As an initial matter, as Broadband VI acknowledge in its Waiver Request, the Lifeline minimum service standard speed is now 18/2 Mbps. See Waiver Request at 1, n. 1. In any event, Broadband VI does not offer a 15/2 Mbps broadband service or an 18/2 Mbps broadband service, and it also does not list a 10/1 Mbps service on its website.

¹⁹ Waiver Request at 4 (emphasis added).

²⁰ *Id.* at 8.

²¹ Lifeline Plan.

²² Although Broadband VI notes in the PSC ETC Application that it has a 5/1 Mbps service, the application also states that Broadband VI will double its speeds in 2018. See Broadband VI ETC Application at 8. Further, Broadband VI commits to offer 15/2 Mbps speeds if it is granted ETC status and states that the “[m]ain points supporting Broadband VI’s ETC designation” include “discounted 15Mb download/2 Mb upload plan.” *Id.* at 1. It does not appear, however, that Broadband VI has ever offered a 15/2 residential plan.

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condition to the PSC's award of ETC status, which, in turn, enabled Broadband VI to receive \$931,211.69 in Connect USVI Fund Stage 1 fixed support.

For this reason, it remains important for the Commission to seek clarification from Broadband VI regarding whether it, in fact, currently is capable of providing 10/1 Mbps throughout the Territory to any requesting Lifeline-eligible customers.²³ Further, if Broadband VI is capable of doing so, the Commission should request Broadband VI to explain why it continues not to advertise 10/1 Mbps service in the Territory despite the Lifeline publicity requirements. Finally, based on the confusion around Broadband VI's purported 10/1 Mbps offering, the Commission also should ask Broadband VI to confirm that it, in fact, will be able to provide 18/2 Mbps broadband service throughout the USVI by December 2019, as it has committed to do. Each of these matters should be clarified on the record prior to FCC action on the Waiver Request.

Sincerely,

/s/ Phillip R. Marchesiello

Phillip R. Marchesiello

L. Charles Keller

*Counsel for Virgin Islands Telephone
Corporation d/b/a Viya*

²³ The geographic coverage of Broadband VI's unlicensed-spectrum fixed network, remains unclear. For example, according to FCC Form 477 fixed broadband data for the USVI, Broadband VI served only 83 of 4,835 census blocks in the USVI (1.7%) both before the storms (June 31, 2017 data) and after the storms (Dec. 31, 2017 data). Viya acknowledges that it is more likely that Broadband VI consecutively certified inaccurate FCC Form 477 data for June and December 2017, rather than that Broadband VI only served 1.7% of the island at that time. However, no more recent FCC Form 477 Data has yet been publicly released by the FCC, so it is not possible for Viya to determine whether Broadband VI has since corrected this probable error.

ATTACHMENT A

APPLICATION OF BROADBAND VI, LLC FOR DESIGNATION AS AN ETC IN THE USVI

July 10, 2018

Donald Cole
Executive Director
United States Virgin Islands Public Services Commission
P.O. Box 40
St. Thomas, USVI 00804

**RE: Broadband VI, LLC
For Designation as an Eligible Telecommunications Carrier**

Dear Mr. Cole:

On June 26, 2018, Broadband VI, LLC ("Broadband VI") filed a Petition for Designation as an Eligible Telecommunications Carrier ("ETC") with the U.S. Virgin Islands Public Service Commission.

Broadband VI respectfully requests ETC designation for participation in both the federal low income customer ("lifeline") program and the federal universal service high-cost programs, specifically the Connect USVI plan.

Additionally, Broadband VI agrees to pay the accessed cost of this proceeding.

If you have any questions regarding this matter, feel free to contact me at (340) 719-0601 or via email at scot@mcchainlaw.com.

Sincerely,



Scot F. McChain

June 27, 2018

VIA CERTIFIED MAIL

United States Virgin Islands Public Services Commission
P.O. Box 40
St. Thomas, USVI 00804

RE: Broadband VI, LLC

To Whom It May Concern:

Enclosed is the following document:

- APPLICATION OF BROADBAND VI, LLC FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER IN THE UNITED STATES VIRGIN ISLANDS

Sincerely,



Scot F. McChain

Enclosure
SFM/ib

**Before the
VIRGIN ISLANDS PUBLIC SERVICE COMMISSION
Charlotte Amalie, St. Thomas, U.S.V.I. 00804**

In the Matter of)
)
Application of Broadband VI, LLC)
For Designation as Lifeline Eligible)
Telecommunications Carrier)
Pursuant to Section 214(e) (2) of the)
Communications Act of 1934 and)
30 U.S.V.I. Code § 45b)

**APPLICATION OF BROADBAND VI, LLC
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER IN THE UNITED STATES VIRGIN ISLANDS**

Pursuant to section 214(e)(6) of the Communications Act, as amended,¹ Broadband VI, LLC ("Broadband VI") petitions the Public Service Commission ("Commission") of the United States Virgin Islands ("U.S. Virgin Islands" or USVI) for designation as an eligible telecommunications carrier ("ETC") for the primary purpose of receiving Lifeline support for Internet service in the U.S. Virgin Islands.

Broadband VI requests ETC designation for the purpose of participation in the federal low income ("Lifeline") program. ETC designation will allow Broadband to provide expanded access to superior internet service to underserved members of our community.

Additionally, issuance of ETC status to Broadband VI in the near term will open up access to FCC grant funds to Broadband VI that are otherwise unavailable. These funds will not only improve access under ETC, but benefit all VI consumers of Broadband VI services by allowing for network hardening and upgrades. Therefore, we are requesting expedited review of our application to allow Broadband VI to access the FCC grant funds for the benefit of all Virgin islanders

Main points supporting Broadband VI's ETC designation follow:

- 9,299 customers and growing
- In business for 16 years, since 2002
- Cover all 3 (actually have service on 7) US Virgin Islands
- Robust and resilient network: First to recover from the storms
- Consumer protection – have a great reputation for customer service
- Financially and Technically capable – profitable and support the largest VI networks
- discounted 15Mb download/2 Mb upload plan
- with FCC approval we should be able to offer a 10Mb/1Mb plan which would have a net cost to the customer of \$39.95/month at inception
- Will use the National Verification system – SNAP card = eligible

BACKGROUND ON PETITIONER AND PROPOSED SERVICES

Broadband VI, a US Virgin Islands Limited Liability Company is owned and operated by US Virgin Islanders. The company was founded in October 2002 and has grown to over 25 employees who serve over 9,299 customers. The headquarters is at 2163 Hospital Street in downtown Christiansted 00820.



Broadband VI maintains a fully staffed office / warehouse in Charlotte Amalie, St Thomas, plus a full-time St. John technician.

Each of the Managing Members have been long-time (20+ year) residents of the US Virgin Islands:

- Mike Meluskey; BS Computer Science Georgia Tech, MBA Georgia State
- Bill Neville; BS Computer Science Rice, MBA Columbia.

Bill is the CEO of the company. He brings his vast experience in software and other related technology companies to help refine and improve the processes and procedures to make Broadband VI a better company.

Mike founded the company 15 years ago and is the microwave technology expert. He is hands-on in monitoring and improving the network. All staff report to Bill and Mike, including our management team:

Abigail Wilson = finance, accounting, and billing. Quickbooks certified instructor. 12 years with Broadband VI.

Garvin Penn = St. Thomas / St. John Network Tower Manager. UVI graduate 11 years with Broadband VI.

Marlon Richardson = St. Thomas / St. John Network Technician. 9 years with Broadband VI

Tory Lane = St. John customer support / technician / manager. 12 years with Broadband VI

Tamara King = Customer Service manager. 7 years with Broadband VI

Carlos Christian = St. Croix Network Tower Manager, 9 years with Broadband VI

Brady Joseph = Network Manager, Tower Climber, Power expert, Fiber tech, 6 years with Broadband VI

Eddison Thomas = St. Croix Field Technician Manager, 5 years with Broadband VI

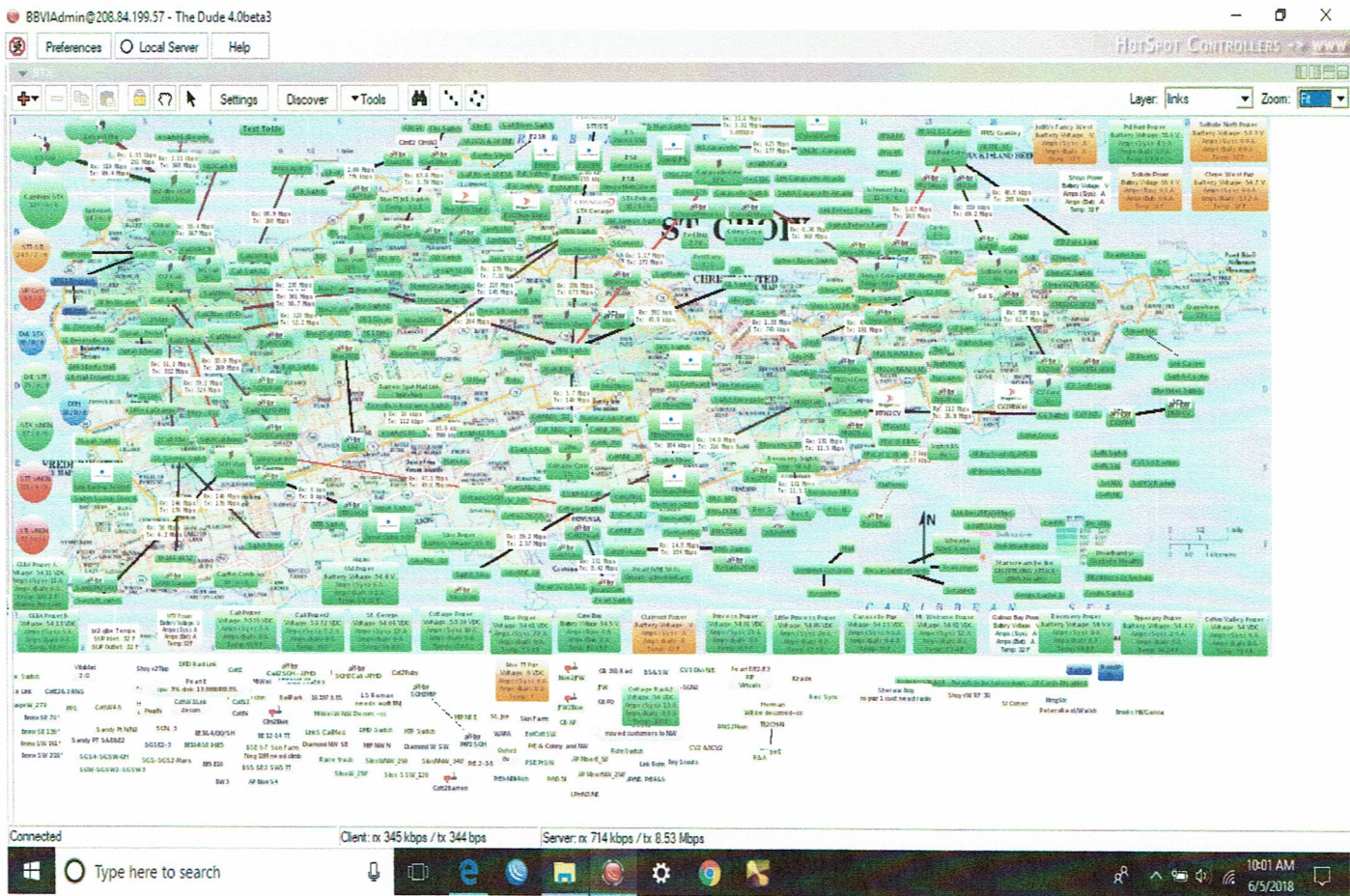
Broadband VI Network

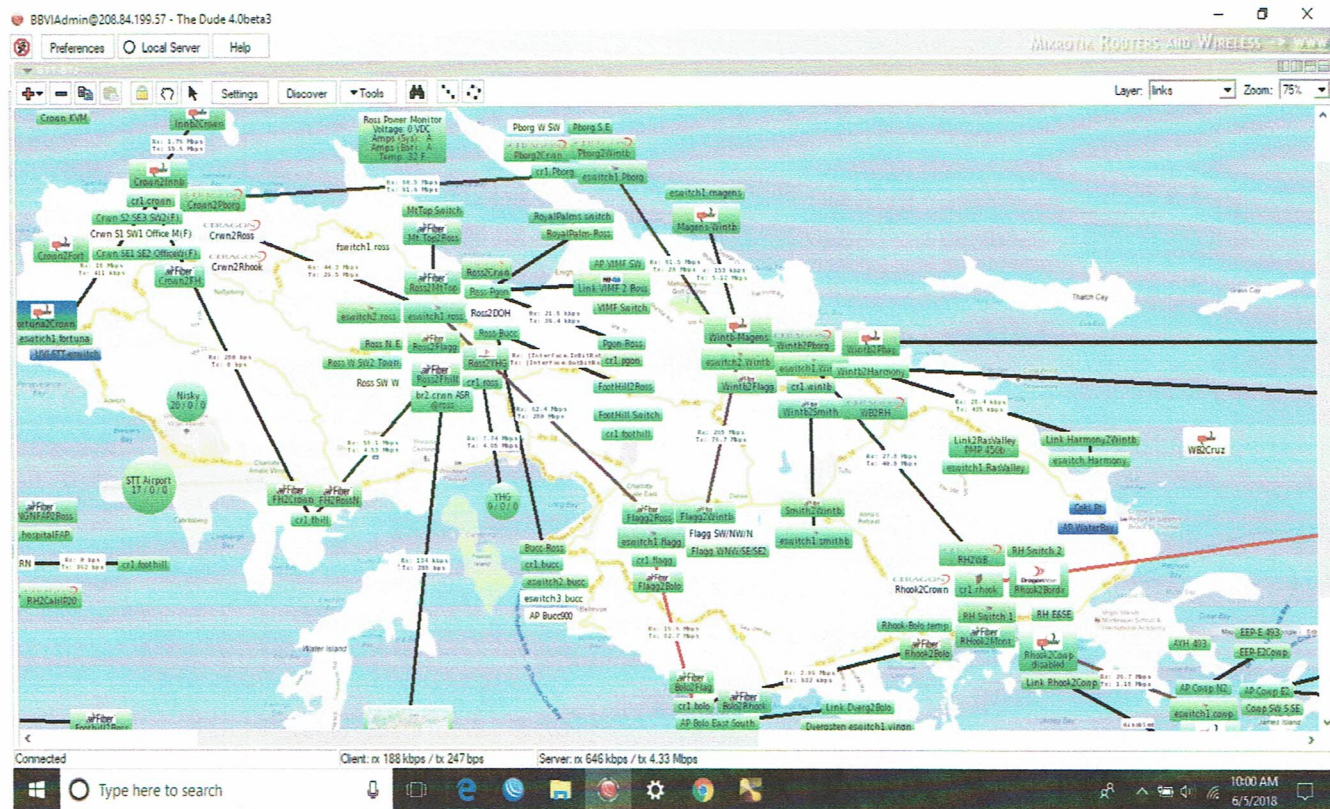
Attached maps highlight our coverage of over 95% of the homes and businesses in the USVI. Our tower sites are fed from two directions, creating a redundant path for data to flow in case of equipment failure. Our data feeds are also redundant as summarized below:

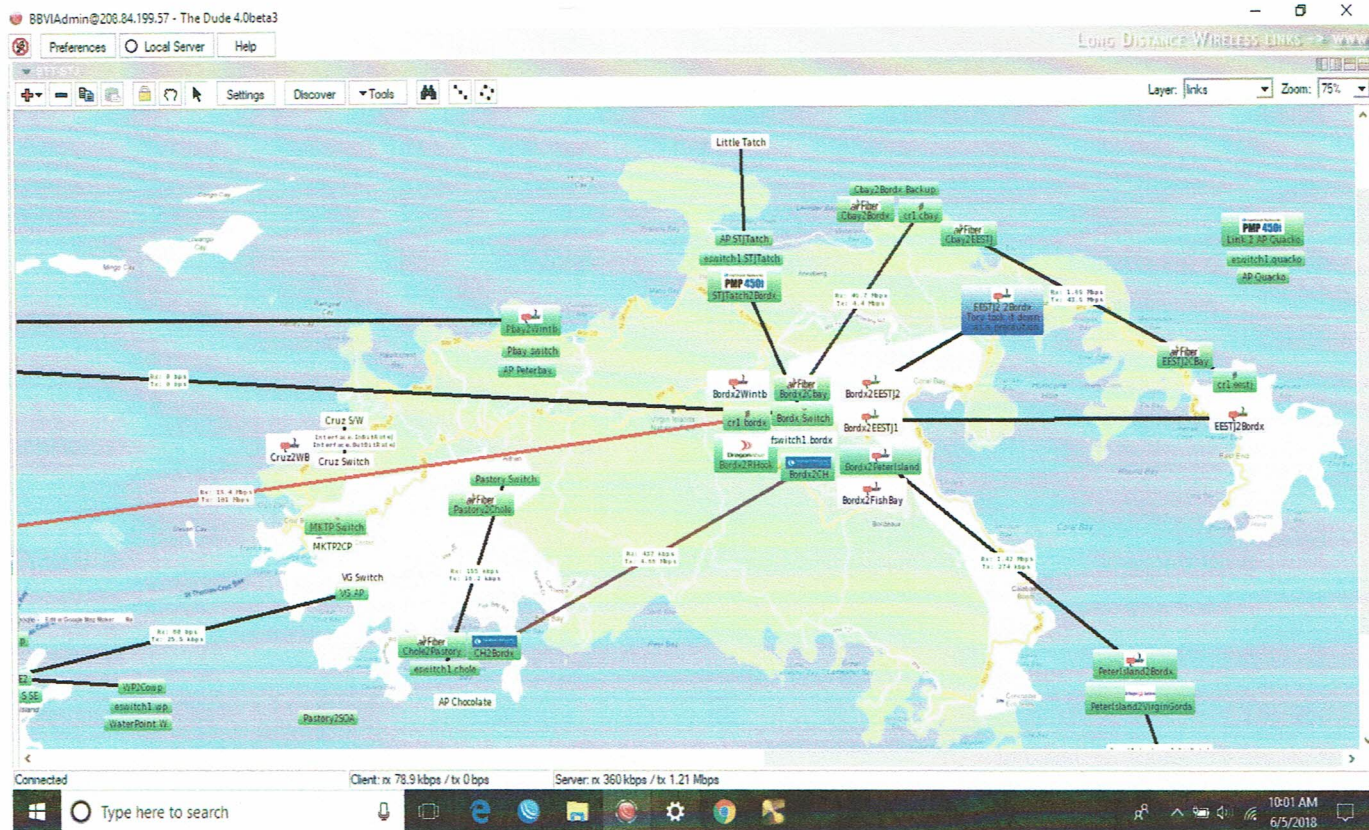
- Century Link / Level3 = two 10Gbps fiber feeds
 - Miami
 - NY, Miami, Los Angeles (via Panama)
- viNGN = feeds to our wireless backhaul from
 - STT; Hospital FAP and Crown Mountain
 - STX; Christiansted and Cottage / Sunny Isle tower
 - STJ; Cruz Bay
 - hundreds of Community Anchor Institutions
 - schools
 - medical
 - government offices
 - fiber at major business areas
 - Sunny Isle

- Havensight
- Red Hook
- Tutu
- Christiansted
- Charlotte Amalie
- Cruz Bay

Here are our network maps of St. Croix, St. Thomas and St. John:







Additionally, Broadband VI is in the process of upgrading its entire network to support higher speeds. The upgraded network will be capable of operating on multiple spectrum bands. The Company has seen significant increases to its network capacity. The target date for network completion and customer migration is the end of 2018.

Broadband VI's Internet Service comes from a hardened, redundant network. Broadband VI has built-in capabilities which allow it to stay online during emergency situations including:

- Battery backup power at all towers / Access Points
- Backup diesel generators at all major towers
- OSPF for automatic fail-over of redundant backhaul feeds to towers
- BGP for automatic fail-over of off-island Internet transit
- A well-trained, dedicated staff of Tower, Field and Network technicians
- VITEMA passes for all personnel
- Portable backup generators, fuel tanks and fuel supply

Our microwave-based system is less susceptible to hurricane damages which allows our network to recover rapidly after a windstorm.

The Lifeline Plan:

The Company will accept the FCC's Lifeline subsidy of \$9.25 per month as partial payment for the Lifeline plan but reserves the right to reevaluate that position as FCC requirements evolve. The current Fixed Broadband Minimum Speed is 15Mbps down, 2Mbps up. The Minimum speeds and usage allowance have been changing over the years:

<https://www.usac.org/li/program-requirements/lifeline-broadband.aspx#minimum>

Broadband VI does not have Usage Allowances with its service plans. Our customers have unlimited bandwidth, unlike other providers who cap the amount of bandwidth per month, and then slow down customers to dial-up speeds.

Broadband VI's current residential plans are: <https://broadband.vi/residential-plans/>

\$49.95/month Basic = 5Mbps down, 1Mbps up

\$99.95/month Streaming = 25Mbps down, 5Mbps up

our plans are to double our speeds later in 2018.

If approved as an ETC, Broadband VI will launch a 15Mbps down, 2Mbps plan for \$69.95/month, which we would discount to \$59.95/month for customers that qualify for Lifeline support.

Broadband VI will ask the FCC for Forbearance to ask for a Lifeline qualifying plan of 10Mbps down / 1Mbps up residential Internet service, which was the standard as of Dec 31st, 2017 and will be our Basic Internet service which we offer for \$49.95/month. If granted Forbearance by the FCC, we will then offer Lifeline qualifying customers our Basic service for \$39.95/month. The two Category 5 hurricanes wreaked havoc on our network. Even though Broadband VI is 100% restored, our network upgrade plan was delayed by the storms. Therefore we would like a year or two to provide Lifeline service at 10/1 for \$39.95. This is plenty of speed for streaming video in High Definition. It is plenty of speed for 2-4 video streams in Standard Definition. And it would allow us to offer the least expensive Fixed Broadband service in the Territory.

REGULATORY BACKGROUND AND STANDARD OF REVIEW

A telecommunications carrier that has been designated as an ETC is eligible to receive federal universal service support under Section 254 of the Federal Communications Act of 1934, as amended (the "Federal Act"). Only ETCs may receive USF support. Under Section 214(e)(2) of the Federal Act, a state commission, such as the VI PSC, is generally responsible for designating a telecommunications carrier as an ETC within such state in accordance with the requirements of the Federal Act.¹¹ Specifically, the Federal Act provides that a state commission may designate a telecommunications carrier as an ETC if the following requirements are satisfied:

- (a) the carrier offers services that are supported by the federal universal service support mechanism, either using its own facilities or a combination of its own
- (b) the carrier advertises the availability of such services and the charges therefor using media of general distribution; and
- (c) the designation of such carrier as an ETC is in the public interest (if such carrier is seeking designation for an area served by a rural telephone company that has already been designated as an ETC).

Title 30 of the VI Code specifically grants the VI PSC jurisdiction over ETC Petitions from CMRS operators but does not address ETC designation for limited purposes. Accordingly, we must look to the FCC for guidance. It is important to remember that the federal Lifeline program is funded entirely from federal sources so the FCC's rules should govern in the absence of local rules.

In its 2012 Lifeline Reform Order the FCC added the goal of expanding broadband availability to low income subscribers. In addition, the FCC now requires all advertising and marketing material to contain simple language that explains the purposes, eligibility qualifications, and limitations imposed by the Lifeline program.

As required by Parts 54.201 (h) and 54.202(a) of the FCC's rules, the PSC must consider the financial, managerial and technical capabilities of the Petitioner to provide the supported services. The Petition in this docket covers only services supported by the federal Lifeline program. Lifeline customers generally are a small portion of the overall customer base. However, since the entire Broadband VI network is used to serve these customers, it is appropriate to consider the overall strengths of the Company.

Broadband VI will provide supported broadband services throughout its requested designated service area using its own facilities. Broadband VI's facilities include its network infrastructure, which consists of switching, routing, fibers and microwave equipment.

Financial, managerial and technical capability

FCC Section 54.201 (h) requires an ETC applicant to demonstrate financial and technical capability to comply with the applicable Lifeline service requirements. According to the FCC, "among the relevant considerations for such a showing would be whether the applicant previously offered services to non-Lifeline customers, how long it has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive revenue from other sources and whether it has been subject to enforcement action or ETC revocation proceedings in any state.?"

Broadband VI is a locally owned Internet provider with over 9,299 customers. The company has been profitable and growing for 15 out of 16 years of its existence. The exception was 2017 due to the dual Hurricanes Irma and Maria. Broadband VI has rebuilt its network and customer base and is now larger and more profitable than before the storms.

Broadband VI's key personnel are responsible for operations in the Territory. Most of the upper management team have over 8 years of telecom experience.

There are no current or pending FCC enforcement proceedings against Broadband VI.

Broadband VI has the financial, managerial and technical capabilities to offer Lifeline services throughout the Territory.

¹¹47 U.S.C. §214(e) (2); 47 C.F.R. § 54.201(b). The FCC has jurisdiction to designate carriers if the state does not have jurisdiction or will not act.

Public Interest

Before granting a request for ETC designation, the Commission must find that grant of the designation would be in the public interest. For the public interest test, the VI PSC must consider the benefits of increased consumer choice, and the unique advantages and disadvantages of the ETC applicant's service offering. We believe that Broadband VI's Lifeline service may provide a variety of benefits to customers in the USVI, including consumer choice and advantageous service offerings.

Minimum Service Standards

Broadband VI certified that it will comply with the minimum service requirements applicable to the support the Company receives, including the service standards set forth by the FCC. Currently, ETCs must offer at least 15Mbps down and 2Mbps upload speeds.

Functionality in emergency situations

Broadband VI is a facilities-based wireless telecommunications carrier with its own switching, transport, tower sites, and associated telecommunications facilities. Broadband VI says it will be able to function in emergency situations as set forth in Section 45a(b)(3) of the Virgin Islands Code, which includes a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. Specifically, Broadband VI says it will have the following capabilities to remain functional in emergency situations:

1. Availability of fixed and portable back-up power generators at various network locations throughout its network that can be deployed in emergency situations;
2. Ability to reroute traffic around damaged or out-of-service facilities through the deployment of portable towers, redundant facilities, and dynamic rerouting of traffic over alternate facilities.
3. A network control center that monitors network traffic and anticipates traffic spikes, and can then (i) deploy network facilities to accommodate capacity needs, (ii) change network routing, and (iii) deploy small towers to temporarily meet traffic needs until longer solutions, such as additional capacity and antenna towers can be deployed.
4. Sites not equipped with fixed generators typically have battery back-up systems installed to maintain service in the event of a widespread power outage.

Broadband VI proved its emergency capabilities after Hurricanes Irma and Maria:

- delivered diesel fuel to generators at towers
- carried portable gas generators to sites where main generator had failed
- re-routed traffic utilizing the few working viNGN drops to feed traffic on St. Thomas
- our tower crews rebuilt / re-aligned dishes to bring towers back online
- we were the only Internet provider able to provide service to many businesses / agencies the weeks / months after the storm.

Consumer protection and service quality standards

Broadband VI has an excellent reputation for Customer Service. Our phone support personnel are friendly and knowledgeable. Our field techs are skilled and experienced. Typical business repair times are next day, residential is 2 days. The reason why the company has been successful is due to its Customer Service.

Broadband VI Wireless subscribers can reach the Company in the following ways:

- Office: stop by our offices at:
 - St. Croix; 2163 Hospital Street, across from the Christiansted Fort parking lot
 - St. Thomas; 3700 Krondprinsens Gade, off Veterans Drive downtown
 - St. John; wherever Tory is in his Jeep
- Web: www.broadband.vi
- Phone: Customer service is available 24 hours 7days a week. Customers can reach customer service by calling 340-719-2943
- Mail: Broadband VI, PO Box 26304, Christiansted VI 00824
- email: office@broadband.vi

Advertising Lifeline Services

The Company intends to offer its Lifeline services to all eligible consumers and, accordingly, will advertise its Lifeline services using media reasonably calculated to reach the general public as clarified in the Lifeline Modernization Order. Broadband VI's advertising materials will state, in easily understood language, that: (i) the service is a Lifeline service; (ii) Lifeline is a government assistance program; (iii) the service may not be transferred to someone else; (iv) consumers must meet certain eligibility requirements before enrolling in the Lifeline program; (v) the Lifeline program permits only one Lifeline discount per household; (vi) that documentation is necessary for enrollment; and (vii) Broadband VI is the provider of the services. In addition, Broadband VI's application/certification form will state that subscribers who willfully make a false statement in order to obtain the Lifeline benefit can be punished by fine or imprisonment or can be barred from the program.

Additional ETC obligations

The Company say it "is aware of the FCC's requirements regarding certification and verification of a customer's qualification for Lifeline service, as set forth in 47 C.F.R. §

Broadband VI Financials

2017 and 2018 YTD financials will be produced on request. Broadband VI has recovered from the hurricanes and is now larger and more profitable than before the storms.

The FCC has established the Connect USVI Fund <https://docs.fcc.gov/public/attachments/FCC-18-57A1.pdf>

which includes \$13 million for telecommunication restoration efforts in 2018 for Eligible Telecommunications Carriers. Broadband VI has spent millions restoring its network and could really use assistance from the FCC in order to:

- Harden – install more:
 - battery banks / 48v power supplies
 - storm proven microwave links and access points
 - redundant warm backup routers and switches
- Upgrade – improve speeds:
 - 10Gbps microwave links
 - 5G customer equipment
- Spares – have on island before storm season
 - customer radios

- dishes
- tower sections
- diesel fuel / tanks
- portable generators

Broadband VI proved its network is of critical importance to making the US Virgin Islands function after a disaster. Our Internet service was the first to come back online after the storms to allow:

- Supermarkets to process credit cards, SNAP cards and order/ship food
- Gas stations to process credit cards so customers could fill their generators
- Hardware stores to customers could buy repair materials with credit cards
- Doctors offices / Hospitals, so patient records / medical forms could be accessed
- Airport connectivity for Airlines, CBP, TSA, FBO's, Freight companies, etc.
- All other businesses, government offices and schools.

Broadband VI Lifeline Projections

Broadband VI does not believe Lifeline will be a major part of our business, but it is important to offer low-cost Internet for those who qualify.

2018 – 200 customers in the remaining 6 months of the year

2019 – 500 customers by end of year 2019

2020 – 700 customers by end of year 2020

2021 – 800 customers by end of year 2021

2022 – 900 customers by end of year 2022

REGULATORY OVERSIGHT AND REPORTING REQUIREMENTS

I. THE VIRGIN ISLANDS PUBLIC SERVICE COMMISSION HAS THE JURISDICTION TO GRANT ETC DESIGNATION

In accordance with 30 V.I.C. § 45a, the Commission “may grant requests by telecommunications carriers, including commercial mobile radio services providers licensed by the Federal Communications Commission [“FCC”], to be designated as "eligible telecommunications carriers". Pursuant to said law, the Commission, therefore has the jurisdiction to designate Broadband VI as an eligible telecommunications carrier in the U.S. Virgin Islands.

II. BROADBAND VI MEETS THE REQUIREMENTS FOR DESIGNATION AS AN ETC TO PROVIDE LIFELINE SERVICE

The requirements that must be met before designating a common carrier as an ETC are outline in 47 U.S.C §214(e)(2) and 30 U.S.V.I. Code § 45a. Broadband VI meets all statutory and regulatory prerequisites for ETC designation, has satisfied all consumer protection and service quality requirement, in addition to being registered with the FCC and American Registry for Internet Numbers (ARIN) for all consumer and technical complaints, as well as the occasional subpoena from law enforcement.

Unlike ETCs receiving high-cost USF support, the role of the PSC for Lifeline ETCs in the Virgin Islands is relatively limited. The FCC does not require state commissions to do ongoing monitoring unless the state has its own Lifeline program. In the Virgin Islands, the state Lifeline program currently applies only to VITELCO. The PSC has not extended any local obligations on wireless ETCs. Consequently, there is no federal requirement to monitor compliance with those obligations.

Notwithstanding the limited role of the PSC after a Lifeline ETC designation has been granted, Broadband VI will report annually on the total number of Lifeline subscribers served. This will facilitate PSC review of the effectiveness of outreach efforts. Title 30 gives the Commission the authority to exercise authority over any ETC it designates in order to assure compliance with the ETC's obligations under law.

Title 30 does not impose annual reporting requirements on any ETCs. However, it has been the practice of the PSC to follow the FCC's lead. The FCC has added some reporting rules for federally designated Lifeline ETCs that mirror the rules for High-Cost ETCs. Specifically, the FCC requires the following to be filed with the FCC and USAC:

- (1) A detailed report of service outages lasting 30 minutes or more in the preceding calendar year that affect at least 10% of the users in a designated service area or a 911 facility;
- (2) A report of the number of complaints per 1,000 connections in the preceding calendar year;
- (3) Certification of compliance with applicable service quality standards and consumer protection rules;
- (4) Certification that the carrier is able to function in emergency situations; and
- (5) Information describing the terms and conditions of the Lifeline service.

We suggest the requirements listed above are unnecessary. Broadband VI will be relying primarily on serving customers over its own network. Consequently, it is responsible for maintaining its network, controlling outages and being able to remain functional in emergencies. Further, the PSC will not be performing an annual "Use" certification similar to the certification required for High-Cost ETCs and already has in its possession a certification regarding service quality and a copy of the Lifeline terms and conditions. Imposing these reporting requirements would be burdensome on Broadband VI and wasteful of PSC resources.

The FCC has introduced several new certification and reporting requirements on all Lifeline ETCs, including those designated by the states:

- (1) An officer of each eligible telecommunications carrier must certify to USAC that the carrier has policies and procedures in place to ensure that its Lifeline subscribers are eligible to receive Lifeline services. In instances where an eligible telecommunications carrier confirms consumer eligibility by relying on income or eligibility databases, the company must attest annually as to what specific data sources the eligible telecommunications carrier used to confirm eligibility.
- (2) An officer of the eligible telecommunications carrier must certify to USAC that the carrier is in compliance with all federal Lifeline certification procedures.

- (3) An officer of the eligible telecommunications carrier must certify annually to USAC that the carrier has obtained a valid certification form for each subscriber for whom the carrier seeks Lifeline reimbursement.
- (4) All ETCs must provide an annual report of their recertification efforts to the FCC and USAC.
- (5) All ETCs must annually report the company name, names of the company's holding company, operating companies and affiliates, any branding (d/b/a) and the universal service identifiers by Study Area code.

Under FCC rules, a copy of each of these certifications and reports must be sent to the state commission.

Consistent with Title 30 §47(d) Broadband VI should be ordered to retain all records required to demonstrate to auditors that the support received was used as intended. Specifically, this includes data supporting counts of lines or accounts, historical customer records, and any other documents supporting the use of universal service funds received. These documents must be retained for five years from the receipt of funding. Note that the retention period under Title 30 is greater than under FCC rules, which require retention for only three years. However, notwithstanding the above, FCC rules require retention of documentation used in consumer eligibility certifications and re-certifications to be retained until the subscriber no longer receives the Lifeline service from the carrier.

SUGGESTED RECOMMENDATIONS

Based on the foregoing, we suggest that the Commission issue an order granting Broadband VI designation as an eligible telecommunications carrier throughout the entire territory of the USVI. We also recommend that the order include the following conditions:

- (1) Broadband VI must comply with any FCC or VI PSC requirements concerning E911 service when implemented in the USVI.
- (2) Broadband VI must file a copy of any updates to its federal compliance plan as required under the new FCC *Lifeline Reform Order*.
- (3) Broadband VI must provide to the PSC copies of the annual reports filed


With the FCC and USAC pursuant to Section 54.416.

- 4) Coincident with the filing of the annual reports referenced in Recommendation 3, Broadband VI must provide to the PSC a report of the total number of Lifeline subscribers served as of December 31 of each year starting December 31, 2018.
- (5) Broadband VI must promptly submit to the VI PSC any additional information or reports that that VI PSC may reasonably request from time to time.

(6) Broadband VI must comply with the record retention requirements contained in Title 30 §47(d),

We suggest that the designation be effective as of the day that PSC approves this Petition.

Respectfully submitted,
Broadband VI, LLC

By: 
Scot F. McChain on Behalf of Michael
Meluskey, CTO and Founder

June 28, 2018

ATTACHMENT B

BROADBAND VI LIFELINE PLAN FILED WITH THE PSC

Broadband VI Lifeline Plan:

Broadband VI will apply the FCC's Broadband Lifeline subsidy of \$9.25 per month as partial payment for qualifying low-income consumers.

Broadband VI's Lifeline plan will meet the current Fixed Broadband Minimum Speed of 15Mbps down, 2Mbps up.

Broadband VI is an Eligible Telecommunications Carrier as designated by the Virgin Islands Public Services Commission. Broadband VI will file Lifeline information with the VI PSC on an annual basis.

Broadband VI will query the National Lifeline Accountability Database to determine whether a prospective subscriber is eligible. Broadband VI will re-certify all customers 12 months after their service initiation date and every 12 months after.

Broadband VI will publicize the availability of Lifeline Broadband Internet service on our website and facebook pages.

Broadband VI will submit an annual certification that we are compliant with Lifeline rules and requirements. Broadband VI will submit an annual report on the company, plans, outages, complaints and emergency preparedness.

Broadband VI will keep records for no less than 3 full years.

Broadband VI does not have Usage Allowances with its service plans. Our customers have unlimited bandwidth, unlike other providers who cap the amount of bandwidth per month, and then slow down customers to dial-up speeds.

Broadband VI's current residential plans are: <https://broadband.vi/residential-plans/>
\$49.95/month Basic = 10Mbps down, 1Mbps up (have not updated website yet)
\$99.95/month Streaming = 25Mbps down, 5Mbps up (50Mbps down where available)

Broadband VI will launch a 15Mbps down, 2Mbps plan for \$69.95/month, which we would discount to \$59.95/month for customers that qualify for Lifeline support.

Broadband VI will ask the FCC for Forbearance to ask for a Lifeline qualifying plan of 10Mbps down / 1Mbps up residential Internet service, which was the standard as of Dec 31st, 2017 and will be our Basic Internet service which we offer for \$49.95/month. If granted Forbearance by the FCC, we will then offer Lifeline qualifying customers our Basic service for \$39.95/month. The two Category 5 hurricanes wreaked havoc on our network. Even though Broadband VI is 100% restored, our network upgrade plan was delayed by the storms. Therefore we would like a year to provide Lifeline service at 10/1 for \$39.95. This is plenty of speed for streaming video in High Definition. It is plenty of speed for 2-4 video streams in Standard Definition. And it would allow us to offer the least expensive Fixed Broadband service in the Territory.